

2016 Regular Session

HOUSE BILL NO. 350

BY REPRESENTATIVE HILFERTY

FAMILY LAW: Prohibits certain persons from preventing or limiting communication, visitation, or interaction with others

1 AN ACT

2 To amend and reenact Civil Code Article 2995 and Code of Civil Procedure Article 4568  
3 and to enact Code of Civil Procedure Articles 3601(E), 4565(B)(7), and 4566(J) and  
4 R.S. 9:3851(E), relative to persons; to provide with respect to interdicted persons;  
5 to provide relative to persons subject to mandate; to provide for duties and  
6 restrictions of curators, undercurators, and mandataries; to provide with respect to  
7 injunctions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Civil Code Article 2995 is hereby amended and reenacted to read as  
10 follows:

11 Art. 2995. Incidental, necessary, or professional acts

12 The mandatory may perform all acts that are incidental to or necessary for the  
13 performance of the mandate.

14 The authority granted to a mandatory to perform an act that is an ordinary  
15 part of his profession or calling, or an act that follows from the nature of his  
16 profession or calling, need not be specified.

17 A mandatory shall not prevent or limit reasonable communication, visitation,  
18 or interaction between the principal and another person without prior court approval  
19 and only upon a showing of good cause by the mandatory.

20 Section 2. Code of Civil Procedure Articles 4568 is hereby amended and reenacted  
21 and Code of Civil Procedure Articles 3601(E), 4565(B)(7), and 4566(J) are hereby enacted  
22 to read as follows:

1 Art. 3601. Injunction, grounds for issuance; preliminary injunction; temporary  
2 restraining order

3 \* \* \*

4 E. The irreparable injury, loss, or damage enumerated in Paragraph A of this  
5 Article may result from the isolation of an individual by any other individual,  
6 curator, or mandatary, including but not limited to violations of Civil Code Article  
7 2995 or Code of Civil Procedure Article 4566(J).

8 \* \* \*

9 Art. 4565. Undercurators

10 \* \* \*

11 B. The undercurator shall:

12 \* \* \*

13 (7) Move to appoint a successor for a curator who violates any of the  
14 provisions of Article 4566.

15 \* \* \*

16 Art. 4566. Management of affairs of the interdict

17 \* \* \*

18 J. A curator shall not prevent or limit reasonable communication, visitation,  
19 or interaction with another person without prior court approval and only upon a  
20 showing of good cause by the curator.

21 \* \* \*

22 Art. 4568. Removal of a curator or undercurator

23 On motion of any interested person, or on its own motion, the court may  
24 remove a curator or undercurator from office for good cause. Good cause shall  
25 include but not be limited to a violation of Code of Civil Procedure Article 4566(J).

26 Unless otherwise ordered by the court, removal of the curator or undercurator  
27 by the court is effective upon qualification of the appointed successor.

1 Section 3. R.S. 9:3851(E) is hereby enacted to read as follows:

2 §3851. Who may file; petition contents; service; venue

3 \* \* \*

4 E. On motion of any interested person or on its own motion, the court may  
5 review the acts of a mandatory and for good cause, grant any relief provided in R.S.  
6 9:3854 or Civil Code Article 3605. Good cause shall include but not be limited to  
7 a violation of Civil Code Article 2995.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 350 Original

2016 Regular Session

Hilferty

**Abstract:** Prohibits certain persons from preventing or limiting reasonable communication, visitation, or interaction with certain persons.

Present law provides that a mandatory may perform all acts which are incidental or necessary to fulfill the obligations as mandatory.

Proposed law specifies that a mandatory may not prevent or limit reasonable communication, visitation, or interaction between the principal and another person without prior court approval and only upon a showing of good cause by the mandatory.

Present law allows a curator to care for the person or affairs of an interdict.

Proposed law prohibits a curator from denying communication, visitation, or interaction with an interdicted individual without court approval and upon a showing of good cause.

Proposed law requires an undercurator to move the court to appoint a successor to a curator if the undercurator learns that the curator has denied an interdicted individual from communicating, visiting, or interacting with a person, unless the court has previously approved such denial.

Proposed law adds that any interested party may petition for the removal of a curator or undercurator specifically if the curator or undercurator is prohibiting visitation of an interdict.

Present law provides for injunctive relief to a party who can demonstrate that irreparable injury, loss, or damage will result in the absence of injunctive relief.

Proposed law provides that the isolation of an individual may qualify as causing irreparable injury, loss, or damage to an individual, and thus allows for injunctive relief to be granted.

(Amends C.C. Art. 2995 and C.C.P. Art. 4568; Adds C.C.P. Arts. 3601(E), 4565(B)(7), and 4566(J) and R.S. 9:3851(E))